MONTANA LEGISLATIVE HISTORY

Special March '86

Chapter 3 1986

Bill H _____ S 2 _____ Original bill & history ___C

H. Committee on State Admin			S. Committee on Local Gouvernment		
Hearing Date(s)	3/27	___C	Hearing Date(s)	3/25	___C
ex	3/27	___C	ex	3/25	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

The Law Library was not provided with any versions of this bill. PLease contact the Montana Historical Society (406-444-2681) for a copy of the original.

SENATE FINAL STATUS

SB 1 INTRODUCED BY HALLIGAN, ET AL.
AMEND CONSTITUTION TO ALLOW LEGISLATURE TO LIMIT PRIVATE ENTITY LIABILITY
BY REQUEST OF GOVERNOR

3/24	INTRODUCED		
3/24	REFERRED TO JUDICIARY		
3/24	HEARING		
3/27	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING	28	22
3/27	2ND READING PASS AS AMENDED	25	25
3/27	3RD READING NOT PASSED	25	25
	TRANSMITTED TO HOUSE		
3/27	REFERRED TO JUDICIARY		
3/28	HEARING		
3/28	COMMITTEE REPORT-BILL CONCURRED		
3/28	2ND READING NOT CONCURRED AS AMENDED (BILL NOT SENT TO 3RD READING) (BILL TO AMEND CONSTITUTION FAILED TO RECEIVE REQUIRED 2/3 VOTE OF LEGISLATURE) BILL KILLED	51	49

SB 2 INTRODUCED BY CRIPPEN, ET AL.
BOND ISSUES FOR LOCAL GOVERNMENT SELF-INSURANCE FUNDS

3/24	INTRODUCED		
3/24	REFERRED TO LOCAL GOVERNMENT		
3/25	HEARING		
3/25	COMMITTEE REPORT-BILL DO PASS		
3/26	2ND READING PASS	46	3
3/26	3RD READING PASS	47	3
	TRANSMITTED TO HOUSE		
3/26	REFERRED TO STATE ADMINISTRATION		
3/27	HEARING		
3/27	COMMITTEE REPORT-BILL CONCURRED		
3/28	2ND READING CONCURRED	98	0
3/28	3RD READING CONCURRED	97	0
	RETURNED TO SENATE		
4/03	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/04	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 3 EFFECTIVE DATE: 4/07/86		

SB 3 INTRODUCED BY TOWE
AMEND CONSTITUTION TO MAKE CLEAR LEGISLATURE DECIDES SOVEREIGN IMMUNITY

3/24	INTRODUCED		
3/24	REFERRED TO JUDICIARY		
3/24	HEARING		
	DIED IN COMMITTEE		

SB 4 INTRODUCED BY TOWE
AMEND CONSTITUTION TO ALLOW LEGISLATURE TO LIMIT

2

SENATE BILL NO. 2

INTRODUCED BY CRIPPEN, FULLER

IN THE SENATE

March 24, 1986	Introduced and referred to Committee on Local Government.
March 25, 1986	Committee recommend bill do pass. Report adopted.
March 26, 1986	Bill printed and placed on members' desks.
	Second reading, do pass.
	Third reading, passed. Ayes, 47; Noes, 3.
	Transmitted to House.

IN THE HOUSE

March 26, 1986	Introduced and referred to Committee on State Administration.
March 27, 1986	Committee recommend bill be concurred in. Report adopted.
March 28, 1986	Second reading, concurred in.
	Third reading, concurred in.
	Returned to Senate.

IN THE SENATE

March 29, 1986	Received from House.
	Sent to enrolling.
	Reported correctly enrolled.

II SPECIAL - 49TH LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 2	3-24-86	3-25-86	3-25-86	3-25-86					

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

MARCH 25, 1986

The first meeting of the Local Government Committee of the 49th Legislature, Second Special Session, was called to order by Chairman Dave Fuller on Tuesday, March 25, 1986 in Room 405 of the State Capitol.

ROLL CALL: All members were present. However, Senators Pinsoneault and Hirsch arrived late. Karen Renne, staff researcher, was also present.

There were many visitors in attendance. See attachments.

CONSIDERATION OF SENATE BILL 2: Senator Bruce Crippen of Senate District 45, the chief sponsor of Senate Bill 2, gave a brief summary of the bill. This bill is an act authorizing political subdivisions to issue bonds or notes, individually or jointly, to establish self-insurance reserve funds; and providing an immediate effective date.

Senator Crippen stated that this problem arose from the recent Supreme Court ruling regarding liability and the lifting of the liability limits. Senator Crippen stated that this bill merely expands current law to allow governments to act collectively and sell bonds to finance such a pooled fund. Senator Crippen stated that the present "insurance crisis" has made liability insurance policies either unavailable or unaffordable for many municipalities.

Alec Hansen, executive director of the Montana League of Cities and Towns, spoke in support of the bill. He stated that there are 7 or 8 cities in Montana that do not have any liability protection at the present time and many more may be in the same situation shortly. This bill could also help school districts and counties.

John Lawton, Finance Director of the City of Billings, spoke in support of the bill. Mr. Lawton had several charts and graphs for the committee to view. He stated that SB 2 is not only the best solution to the insurance problem, it is the only solution. At least seven cities in Montana, including Billings, are presently without liability insurance, putting local taxpayers directly at

risk. Any large claim against the uninsured cities would have to be paid by a special direct tax, spread out over three years. In response to the crisis, The Montana League of Cities and Towns proposes a self-insurance program that would sell liability insurance to municipalities at rates 20 to 50 percent lower than current private sector rates. There is a two part solution to the existing problem.----- 1) Place limits on the government liability or --- 2) the proposed insurance solution. This bill is a mere financial mechanism. The program is designed to handle "big hits". This would guarantee long term coverage and can be used by various government units. Besides providing needed insurance at a lower cost, the fund also will keep more premium dollars in Montana rather than paying them to out-of-state companies, and rates will be based on actual losses in Montana rather than the nation. It provides a self-sustaining source of capital. This proposal was the direct result of cities, towns and also insurance experts working together on the problem. Mr. Lawton stated that the self-insurance plan could be set up by next week, if approved, and bonds to finance the plan could be sold within three or four months. California hopes to adopt this program within the next few weeks.

Don Peoples, Executive Director of Butte-Silver Bow, spoke in support of the bill. He stated that this is a good way for cities to handle their own problem.

Gordon Morris, representing the Montana Association of Counties, spoke in support of the bill. He then introduced a number of county commissioners from across the state, and indicated that they all are in support of this bill.

Jim Van Arsdale, mayor of Billings, spoke in support of the bill. He stated that there are 40 to 50 suits pending at the present time in his city. The cities need this program to be able to protect the taxpayers.

Nathan Tuborgren, representing the city of Great Falls, spoke in support of the bill. He stated that this is a nationwide problem that needs to be addressed.

Chip Erdman, representing the Montana School Board Association, commented that they are experiencing the same problem as the cities and that this bill would be a practical and workable answer to the problem.

Mae Nan Ellingson, representing Dorsey and Whitney, stood in support of the bill. Ms. Ellingson helped to draft this proposal.

With no further proponents, the chairman called for opponents to SB2. Hearing none, the meeting was opened to a question and answer period from the committee.

Senator Fuller asked how many mills would have to be levied against the taxpayers of Billings if that city were to lose a one million dollar liability suit. Mr. Lawton replied that 10 mills for the next three years would have to be levied.

Senator McCallum asked about coverage. All cities and towns would receive the same coverage.

Senator Dorothy Eck asked if there are standards for the management of this program. This program would be organized under the Interlocal Government Statutes.

Senator Fuller stated that the government does not want to compete with the private sector, however, they do not have a choice about getting into the insurance business. Coverage is not always available. The cities and towns cannot be left without insurance.

Deer Lodge was used as an example of a smaller town to point out what would result if they would lose a one half million dollar suit. They would have to double property taxes for three years.

Senator Pinsoneault asked if anyone present had been contacted by someone from the insurance sector lobbying against this bill. No one had been contacted.

Roger McGlenn, representing the Independent Insurance Agents of Montana, stated that his company had not been contacted by the large companies and he felt he would be one of the first ones contacted if there was any opposition to the bill.

Senator Crippen closed. He stated that the cities and towns do not have any choice in the matter, something must be done. The law is already in existence and Senate Bill 2 only provides a financial mechanism for self-insurance. This bill also has a provision allowing that if private insurance becomes available and affordable

in the future, the self-insurance fund can buy private insurance or dissolve itself.

ACTION ON SENATE BILL 2:

A motion was made by Senator Crippen that SB 2 receive a DO PASS recommendation from the Committee. Motion carried unanimously.

ADJOURN: With no further business the meeting was adjourned at 1:55.

Senator Dave Fuller, Chairman

eg

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49 th LEGISLATIVE SESSION -- 1986 Date Mar 25, '86

NAME	PRESENT	ABSENT	EXCUSED
DAVE FULLER	✓		
JOHN MOHAR	✓		
BRUCE CRIPPEN	✓		
DOROTHY ECK	✓		
ETHEL HARDING	✓		
LES HIRSCH	late		
GEORGE MC CALLUM	✓		
DICK PINSONEAULT	late		
PAT REGAN	✓		
PETE STORY	✓		

Each day attach to minutes.

DATE Mar. 25, 1986

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Debi Brammer	MACD	SB 2		
C.R. Hagener	MACO	SB 2	✓	
Otto Jensen	M.A.C.O.	SB 2	—	
Mike Jurberger	City of Great Falls	SB 2	✓	
Bob Wright/Jon	Great Falls	SB2	✓	
Tom Van Cleedale	City of Billings	SB 2	✓	
Mae Nan Ellingson	Kelsey & Whitney	SB	✓	
Janet Jessup	City of Helena	SB 2	✓	
Brooker Mohn	"	"	✓	
ROGER MCGLE...	IIA of MONTANA	—	—	—
Alec Hansen	MLCT		✓	
Gordon Morris	MACo	SB2	✓	
Bob Mullen	MACo - Richland Co.	"	✓	
ROBERT THROSSELL	STATE AUDITOR/INS DEPT	SB 2		
John Lawton	City of Billings	SB2	✓	
CHUP EROMANN	MSBA	SB2	✓	
TIM BERGSTROM	MONT STATE FIREMANS ASSOC	SB2	✓	
Riley Johnson	PIA & NFIB	SB 2		
Don Peoples	Butte Silver Bow Local Gov't	SB 2	✓	

(Please leave prepared statement with Secretary)

MONTANA MUNICIPAL

Clerks—Treasurers—Finance Officers

ASSOCIATION

March 21, 1986

Rep. Paula Darko, Chairman
House Local Government Committee
and
Sen. Dave Fuller, Chairman
Senate Local Government Committee
State Capitol
Helena, Montana 59620

Dear Rep. Darko and Sen. Fuller:

The Executive Board of the Montana Municipal Clerks, Treasurers and Finance Officers Association passed the following resolution during the Montana Institute of Municipal Clerks held the week of March 17-21, 1986 in Bozeman.

Sincerely,

DONALD L. HACKMANN
President

DLH:rs

cc: Alec Hansen, Executive Director
Montana League of Cities and Towns

GO
GOod
GOvernment

EXHIBIT 1
3-25-86
S.B. 2

R E S O L U T I O N

WHEREAS, cities and towns in Montana are experiencing a liability insurance crisis; many communities have not been able to obtain necessary coverage while the cost of policies has increased anywhere from 150 percent to 800 percent; and

WHEREAS, liability insurance is absolutely essential to protect the taxpayers of our cities and towns from damage claims; and

WHEREAS, the cost of insurance also has important consequences on the budgets of the municipal governments of the State of Montana.

NOW, THEREFORE, BE IT RESOLVED that the Montana Municipal Clerks, Treasurers and Finance Officers Association urges the legislature in special session to adopt a referendum that would give the people of this state an opportunity to vote on the question of whether or not governmental units should have protection as has been provided by Montana law in the past; and

BE IT FURTHER RESOLVED that this Association supports the efforts of the Montana League of Cities and Towns to have legislation adopted that will allow local governments to issue revenue bonds for the purpose of funding reserve accounts for self-insurance pools.

Exhibit 1
3-25-86
S.B. 2

Adopted by the Executive Board of the Montana Municipal Clerks, Treasurers and Finance Officers on the 21st day of March 1986 and supported by we, the following clerks, treasurers and finance officers:

Name	Position	City/Town
Kelly A. Rennie	Clerk/Treas	Belgrade
Juanita F. Fisher	Deputy Clerk	Belgrade
Ellene A Jensen	Clerk-Treas	Melstone
Vicki L Manning	Clerk-Treas	Ennis
Sue E Glenn	Clerk	Lewistown
Dale C Bugbee	Clerk	Melstone
Dorothy Kovacich	Clerk-Treasurer	Grass Range
Nina Williams	Clerk-Treasurer	Broadus
Linda Bartlett	Clerk-Treasurer	Winifred
Diane Bailey	Clerk-Treasurer	Hot Springs
Tom Hall	Clerk-Treasurer	Kalispell
Patty Hachen	Deputy Clerk	Fort Benton
Regina Herdon	Clerk	Fort Benton
Jeanne Riley	Treasurer	Bozeman
Wanda Porter	Clerk	Hamilton
Peggy A Clubb	Admin Asst	Hamilton
Ann S Malia	Clerk/Treasurer	Hysham
Doreen Mahlum	City Clerk	Hay Point
Doris Nordhagen	Clerk/Treasurer	Wolf Point
Eadie Huber	Clerk/Treasurer	Terry

Exhibit #1
3-25-86
SB 3

Adopted by the Executive Board of the Montana Municipal Clerks, Treasurers and Finance Officers on the 21st day of March 1986 and supported by we, the following clerks, treasurers and finance officers:

Name	Position	City/Town
Richard L. Hollibaugh	Vice President-3rd Class Cities, Clerk-Treasurer	Scobey
Elsie Olson	City Clerk	Plentywood
Jeffrey Tyrrell	Town Clerk/Treasurer	Medicine Lake
Kathlyn Wenke	Town Clerk/Treasurer	Thompson Falls
Lee Ann Gottfried	Clerk-Treasurer	St. Ignatius
Sharon L. Smith	Clerk/Treasurer	Three Forks
Vicki Ellison	Clerk/Treasurer	Manhattan
Daniel D. Watson	CITY CLERK	FORSYTH
Charlotte Dealley	Town clerk/treasurer	Brockton
Amanda M. Doll	City CLERK	GLASGOW
Don Hoffman	city clerk	Laurel

Exhibit 1
3-25-86
S.B. 2

Adopted by the Executive Board of the Montana Municipal Clerks, Treasurers and Finance Officers on the 21st day of March 1986 and supported by we, the following clerks, treasurers and finance officers:

Name	Position	City/Town
Lorraine Mulvaney	Deputy Clerk	Chinook
Faye E. LeReeby	Deputy Clerk	Dillon
Jari Morris	City Clerk	Kountze
Jean Fontana	Town Clerk	Belt
Sharon Wiseman	County City Clerk	Laurel
A.M. Horton	City Clerk	Billings
Irene Butler	Town Clerk	Wibaux
Lori Eades	Deputy Clerk	Glendive
Mick A Dennedt	Finance Director	Bozeman MT
Marie B. Mitch	Asst Clerk	Court Bozeman
Marlene La Ellison	City Treasurer	Columbia Falls
Pat Jurkovich	City Clerk	Red Lodge

Exhibit 1
3-25-86
S.B.-2

Adopted by the Executive Board of the Montana Municipal Clerks, Treasurers and Finance Officers on the 21st day of March 1986 and supported by we, the following clerks, treasurers and finance officers:

Name	Position	City/Town
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
Audrey Ebelt	Clerk - Treas	Stevensville
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
Brenda L Schneider	Clerk - Treasurer	Superior
Eileen Naacke	Clerk - Treasurer	Darby
Diana Miller	Clerk - Treas	Dutton
Barbara R Mandeville	City Clerk	Helena
DeAnne M Weeks	Clerk - Treasurer	Culbertson
Debbie Comiacki	Assistant City Clerk	Red Lodge

Exhibit 1
3-25-86
S. B. 2

STANDING COMMITTEE REPORT

March 25, 1986

MR. PRESIDENT

We, your committee on Local Government

having had under consideration Senate Bill No. 2

First reading copy (white color)

Respectfully report as follows: That Senate Bill No. 2

DO PASS

XXXXXXXXX

Senator Dave Fuller Chairman.

Form CS-32
Rev. 1985

STATUS SHEET

SECOND SPECIAL 49TH LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
HB 4	3-24-86	3-24-86		3-24-86							
SB6	3-26-86							3-26-86			
SB 2	3-26-86	3-26-86	3-27					3-27-86			

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
SECOND SPECIAL 49th LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 27, 1986

The meeting of the State Administration committee was called to order by Chairman Walter Sales on the above date at 10:00 a.m. in Room 317 of the State Capitol.

ROLL CALL: All members were present with the exceptions of Representatives Kennerly, O'Connell and Pistoria who were absent. Members of the Local Government committee were also present at this joint meeting with the exception of Rep. Kitselman, who was excused. Reps. Wallin, Brandewie, Fritz, Gilbert, Hansen, Kadas and Poff were attending the Business and Labor committee hearing.

CONSIDERATION OF SENATE BILL NO. 2: On behalf of Senator Crippen, District 45, chief sponsor of SB 2, Senator Fuller, District 22, presented this bill to the committee and stressed the significance of SB 2 in addressing the current liability problems by authorizing political subdivisions to issue bonds or notes, individually or jointly, to establish self-insurance reserve funds. To further explain SB 2, the bill authorizes local governments to issue and sell bonds or notes for the purpose of funding a self-insurance or deductible reserve fund. The bonds thus issued may not exceed three percent of the taxable valuation of the local government, but other restrictions relating to debt limits do not apply. The bond interest and principal is to be repaid under the property tax authority for insuring the local government. That provision is outside of the all-purpose mill levy for cities and a separate levy for other local governments.

PROPONENTS: Alec Hansen, Montana League of Cities and Towns, expressed his concern for the seven unprotected cities in Montana that do not have liability insurance, ranging in size from Billings to Judith Gap. The possibility of claims could lead to judgment levies that would be imposed on taxpayers of those jurisdictions for over three years resulting in enormous consequences on the property tax rates in those respective communities. Mr. Hansen stated that this bill is essential to culminate efforts to establish practical, affordable, and reliable insurance coverage for local governments. He pointed out that this authority would also apply to counties, school districts and other political subdivisions, possibly including conservation districts. Local governments need the capacity to develop these insurance programs for protection against large liability judgments. This bill is intended as a mechanism for capitalization of the self-insurance program to provide that extra measure of protection necessary to guard against

judgment levies. In the last four months, the League of City and Towns has worked with Marsh McLennan, insurance brokers, searching every market in this country and overseas to find a company that will reinsure the self-insurance pool for the cities and towns of Montana. Without that additional insurance coverage, we can only go to a straight self-insurance pool and only offer up to possible $300,000 in coverage. The sky is the limit in liability cases, and therefore this coverage is not adequate.

Hansen further stated that this program is intended to save tax dollars by protecting cities, towns, counties, and school districts against major judgments and by providing a reliable, affordable source of liability coverage. He felt that the League can provide adequate insurance coverage at a rate that is competitive or lower than the current commercial market rate. See exhibit A.

John Lawton, Finance Director of the city of Billings, stated that there are two parts of the liability problem. Local governments do not have liability insurance and there are no limits on liability. The supreme court in its Pfost decision removed limitations on governmental liability previously established by the legislature. Since that decision, Billings, to name one Montana city, has no present insurance to pay possible liability claims except by levying taxes directly against the taxpayers or by drawing against reserve funds, if indeed, there are reserve funds. The problem is getting worse. More cities will lose their insurance by the end of this fiscal year, and those not losing it at this time will suffer cost increases in their insurance ranging from 200 - 500%, As far as the limits are concerned, it will be nine to ten months before limits can be reestablished in the general session of the legislature. The taxpayers' risk in the interim will be unlimited, and the problem of having no insurance will continue.

Lawton explained that the Montana League of Cities and Towns Insurance Trust was set up last year to provide pooled self-insurance in the workers' compensation, property, and liability areas. As of January 1, 1985, League membership included 39 members and over $1.6 million in annualized premiums, managed by insurance professionals. Liability insurance was to have been established on March 1, 1986, but efforts were not successful; the umbrella insurance or the reinsurance were not available. Plans to pool the premiums and offer coverage up to $250,000 to $300,000 and plans to buy reinsurance to cover losses above $1 million were not possible. There were no prospects of getting reinsurance in the near future. Without reinsurance, the taxpayers would be directly exposed to the losses.

Issuing bonds to provide liability coverage appears to be the best solution to the insurance problem. The concept is that bonds would be issued in the amount of, say, $20 million. Coverage would be provided to member cities on an actuarially sound basis up to the limits that we hope are established by the legislature. By selling bonds, money would be realized and would be used to provide the capital for the insurance program. Premiums would be paid just as they would be paid ordinarily to the insurance company, but this would supply the program with cash reserves. The money earned would be sufficient to repay the bonds over 20 years and would be able to generate free reserves of about $18 million in 12 years. Senate Bill 2 would allow bonds to be issued to establish the reserve outside of normal debt limits and would allow premiums to be paid outside normal levy limitations. To protect the taxpayers, each jurisdiction's share of debt could not exceed three percent of its taxable value. We ask for a simple statutory change to let us solve our own problem. If reinsurance again becomes available, the cash reserve could be further protected by buying the reinsurance. Mr. Lawton urges the passage of SB 2. See exhibit B.

Bill Johnstone, representing Dorsey and Whitney, prepared the legislation on behalf of the League of City and Towns. Johnstone pointed out the existing legislation authorizes political subdivisions to self-insure and create self-insurance reserve funds. This is necessary because if you are self-insured, you need the reserve funds. This bill allows the cities and towns to establish the reserve funds immediately; the need is immediate. This bill, he explained, does not increase governmental authority to levy taxes in order to cover their insurance needs; by limiting the amount of debt that can be incurred to three percent, SB 2 imposes a limitation on the amount of taxes that can be levied that does not presently exist. Montana is leading the nation in developing the self-insurance program. Johnstone said that he has discussed similar programs with Iowa, Minnesota and California, states that are looking at the merits of self-insurance policies.

Jim Van Arsdale, Mayor of the city of Billings, offered support of SB 2. Van Arsdale stated that the city of Billings is presently uninsured since losing its insurance last year. The city went directly to a self-insurance program to protect itself against lawsuits. Because the city has 40 or 50 pending claims against it, immediate steps must be taken for protection. The taxpayers of Billings are in "limbo" because a large claim would have to go to the taxpayers in the form of a large levy. Mayor Van Arsdale supports SB 2. See exhibit C.

Don Peoples, Chief Executive of Butte-Silver Bow, stated that Butte is also faced with the insurance crisis. Butte-Silver Bow is losing most of the insurance coverage that had been available, and the coverage that is still available faces a 400-500% rise in insurance costs. Chief Executive Peoples supports SB 2 and describes the bill as a sensible approach for local government in establishing a sufficient self-insurance pool. The bonding authority requested provides funds for the possible claims and provides a vehicle for local governments to shoulder their respective problems. See exhibit D.

Bob Mullen, representing The Montana Association of Counties, stated that the Association is finding it more and more difficult to find liability insurance. Almost without exception, counties are operating without environmental impairment liability for such operations as land fill and weed spraying programs. He stated that they are in the process of trying to put together a pooled insurance program, but one that is somewhat different than the program the League of Cities and Towns put together. His Association still has the excess insurance carrier; the League has been denied the excess insurace carrier. If this insurance program was not available, they would become involved in the pooled insurance program over night. Eventually, the Association will more than likely be forced to use this basic concept of insurance. Mullen supports SB 2. See exhibit E.

Debi Brammer, Executive Vice-President of the Montana Association of Conservation Districts, urged support of SB 2. Ms. Brammer stated that they have lost just about all the liability insurance they had in almost every one of their 59 conservation districts. She stated that there has been an increased demand on their workload in the last few years, and liability insurance is a necessity. Since they cannot get the liability insurance, they welcome this option. See exhibit F.

Bill Verwolf, City Manager of the city of Helena, stated that Helena is also without liability insurance. Helena is currently self-insured because, even though they had found an insurance carrier, the premiums skyrocketed from $57,000 to $280,000 and the deductible went from $1,000 to $25,000. Verwolf explained that a reserve must be built in order to have the self-insurance fund, but whether cities have the bond issuance option or not, there must be a reserve fund. He further stated that the principal and the interest earnings brought about by the bond issuance can actually help build the reserve fund. This will put the cities in a position to pay annually into the self-insurance program because this generated money will help pay the excess over claims creating a solid business climate. Verwolf supports the authority given in SB 2 to issue and sell bonds and notes to fund the reserve because it creates the ability to pay big claims immediately.

OPPONENTS: Julie Hacker, representing Missoula county Freeholders Association, has some concerns with SB 2. She stated that the Association questions whether bonds amounting to 3% of the taxable valuation of the local government can be issued by more than one political subdivision at the same time and asked the legislature to clarify how many times the limitation can be used on a single piece of property. She also asked who will administer the program, the public or private sector.

QUESTIONS ASKED ON SENATE BILL 2: Chairman Walter Sales asked Bill Johnstone to respond to Ms. Hacker's concern. Johnstone explained that each unit of local government currently has authority to levy taxes to pay premiums. If the units overlap, they levy those taxes against the same piece of property. The fact that there is a three percent limitation does not mean that the borrowing is going to be three percent from each participant. It may be significantly less depending on the needs and taxable valuation. In a local government agreement, there would have to be an agreement reached on each unit's respective participation. Quite likely, it would be less than the three percent.

Rep. Campbell questioned Verwolf concerning last year's premium cost of $57,000 and asked what Helena anticipated as far as the cost involved in participating in the self-insurance pool. Verwolf explained the cost will go somewhat over $100,000, but this amount will be substantially less than the $280,000 premium required to continue coverage under the former insurer. It may be that a tax increase will be necessary to pay the program insurance rates, but it will not be an increase over what we would have had to pay if we were in the insurance market today.

Rep. Garcia questioned Mayor VanArsdale about the 40 or 50 claims processed this year. Van Arsdale explained that the number of claims were actually the number of claims that were pending at any one time against the city of Billings, either active or pending actions.

Rep. Cody questioned Johnstone concerning line 19: ", and may contain such other terms and provisions as the governing body determines . . . ," Johnstone replied that when you issue bonds there would have to be a bond resolution outlining other terms and provisions that are appropriated to secure the bonds and to describe a clear payment.

Rep. Sands asked John Lawton about the envisioned plan concerning retro-rated premiums and asked if they had to be retro-rated. Lawton responded that they did not have to be; that there are a number of different ways the premiums could be structured. The bill does not specify how the premiums are to be structured, but they offered the structure that provided the maximum security

for the funds.

Rep. Nelson queried Lawton concerning a way to keep an overall tab on the administration of the different reserve funds. Lawton explained that the League of City and Towns has established a trust of approximately 60 members and that one group of insurance professionals will administer the trust. He explained that the counties have also set up self-insurance administering arrangements but could not answer for the other political subdivisions. Lawton said that it was conceivable that tab-keeping entities would be established for each subdivision, but that SB 2 does not call for such arrangements. He went on to explain that there is nothing to prevent the cities, counties, school districts, and conservation districts from going together to form a trust.

In responseto another question by Rep. Nelson, Lawton said that because of the success of this program, there may not be a need to have to compete with the traditional insurance market. As a matter of economics, if the insurance company has competitive rates, we may consider doing business with the insurance market. Perhaps the first need would be buying reinsurance to protect the funds in the pool.

Mr. Hanson commented on Rep. Nelson's question, stating that beginning in September, the League will have a nine-member board of trustees to run its insurance program. These members will be volunteers, and such a program will work because the administrative costs will be reduced. The economics of this plan are solvent.

Rep. Jenkins addressed Alec Hanson and asked if it would be better to work on a statewide basis with all counties and include those who wanted to join, than to try to divide into smaller pools. Hanson replied that when you are dealing with different types of exposures, it is difficult to rate the premiums. John Lawton added that the cities and counties are ready to move because they need immediate protection. At a later date, there is no reason to prevent the counties and cities from merging their programs or from merging with the school districts, but they would want to scrutinize the risks and complications of administration and the loss projections.

Rep. Switzer questioned Lawton about the provisions of salvage concerning any funds initially used to begin the pool if a certain political subdivision wanted to pull out of the group, go into another group, or exist by itself. Lawton explained that the city members own the program and that they must be in it for a minimum of three years. After three years, they would

be able to leave. They own the rights to the program that they have built.

DISPOSITION OF SENATE BILL NO. 2: Representative Phillips moved that SB 2 BE CONCURRED IN. Rep. Jenkins seconded the motion which carried unanimously.

There being no further business before the committee, the meeting adjourned.

WALTER R. SALES, Chairman

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 27, 1985

NAME	PRESENT	ABSENT	EXCUSED
SALES, WALTER CHAIRMAN	✓		
O'CONNELL, HELEN, VICE CHAIRMAN		✓	
CAMPBELL, BUD	✓		
COMPTON, DUANE	✓		
CODY, DOROTHY	✓		
GARCIA, RODNEY	✓		
HAYNE, HARRIET	✓		
HARBIN, RAYMOND	✓		
HOLLIDAY, GAY	✓		
JENKINS, LOREN	✓		
KENNERLY, ROLAND	✓		
MOORE, JANET	✓		
NELSON, RICHARD	✓		
PETERSON, MARY LOU	✓		
PHILLIPS, JOHN	✓		
PISTORIA, PAUL		✓	
SMITH, CLYDE	✓		
VELEBER, DENNIS	✓		
	✓		

CS-30

March 27, 1986

TO: Chair and Members, House Local Government Committee
FROM: Lee Heiman, Committee Counsel

BILL SUMMARY -- Senate Bill 2, Sponsor Sen. Crippen

Senate Bill 2 authorizes local governments to issue and sell bonds or notes for the purposes of funding a self-insurance or deducible reserve fund. The bonds thus issued may not exceed 3% of the taxable valuation of the local government but other restrictions relating to debt limits do no apply. The bond interest and principal is to be repaid under the property tax authority for insuring the local government. That provision is outside of the all-purpose mill levy for cities and a separate levy for other local governments.

lh:AT2\dw3\lee\sum.004

Exhibit A
3-27-86

WITNESS STATEMENT

NAME Alec Hansen BILL NO. SB-2

ADDRESS 130 Neill Ave - Helena DATE 3-27-86

WHOM DO YOU REPRESENT? Montana League of Cities & Towns

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The authority that will be provided by this bill is absolutely essential to our ability to provide reliable and affordable vehicle insurance coverage for [illegible] will have with the insurance to local governments to continue self-insurance programs. This flexibility is necessary to the security of these programs and without this bill, local governments will not have the capacity to operate insurance programs that is necessary to keep costs for programs down. The management procedures of large liability judgments

BEST COPY AVAILABLE

Exhibit B

WITNESS STATEMENT

NAME John Lawton BILL NO. S-2

ADDRESS 545 Highland Park Dr. Billings DATE 3/27/86

WHOM DO YOU REPRESENT? City of Billings, Finance Director

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

BEST COPY AVAILABLE

John Lawton

Montana cities have a two-fold liability problem. First, due to the Supreme Court's Pfost decision, liability is now unlimited. Second, many cities have lost their liability insurance coverage altogether and many more have suffered staggering premium increases.

Even if the legislature intends to re-establish liability limits they can't be reestablished for 9 to 10 months. Meanwhile, taxpayers will be directly exposed to large losses. Large claims must be directly levied as a tax if there are no other means to pay them. Even if limits are reestablished, there still would be no insurance to protect the taxpayers for judgments below those limits.

The ~~Montana~~ Montana League of Cities and Towns Insurance Trust is proposing a solution to the insurance problem.

judgm[illegible]nts below those limits.

THE INSURANCE SOLUTION

The Montana League of Cities and Towns Insurance Trust is proposing a solution to the other half of the problem. This is a simple change in the local government insurance law to allow bonds to be issued to provide insurance coverage.

The Insurance Trust was formed by the League of Cities and Towns to provide pooled insurance coverage in the workers' compensation and liability areas. This response to the insurance crisis was formed with the idea that there would be strength in numbers in the absence of liability coverage. The trust has already established a self-insured workers' compensation program with 96 members, over $3 million in premiums and professional insurance management.

Issuing bonds to provide liability coverage for cities appears to provide the best available solution to the insurance problem. The concept is that bonds would be issued in the amount of, say, $20 million. Coverage would be provided to member cities on an actuarially sound basis up to the limits that are (hopefully) established by the Legislature.

The money realized from selling bonds would be used to provide capital for the insurance program. Member cities would pay premiums just as they would to an insurance company. Substantial interest would be earned on cash reserves. Financial projections done by insurance consultants show that premiums and interest earnings would be sufficient not only to repay the bonds over 20 years, but also to generate free reserves of about $18 million by about the 12th year of the program.

To allow bonds to be issued for this purpose, a simple law change is needed. The proposed law would allow debt to be issued outside normal debt limits and would allow premiums to be paid outside normal levy limitations. These provisions are necessary to provide security to enable the bonds to be sold but, in fact, the premiums could be paid just like normal insurance premiums and would not require levies over and above any limits. To protect the taxpayers, each jurisdiction's share of the debt could not exceed 3 percent of its taxable value.

While not necessarily perfect, this solution is probably the best way to protect the taxpayers from financial losses due to lawsuits at this time. It provides long-term coverage, it is self-supporting, and it was designed by insurance and financial experts. We are not asking the state for special programs or assistance — just a simple law change to allow us to solve our own problem. The program can be used by other governments, and if reinsurance ever becomes available again, the cash reserve could be further protected by buying reinsurance.

In short, we believe we have found workable solutions to a serious problem. We hope the Legislature will deal with them quickly and positively. The city of Billings has 40 to 45 active or threatened lawsuits going at any one time. Eventually, one of these claims could result in a major loss for the city. We need to take every step possible to protect the taxpayers in the event of a major loss.

John Lawton is the finance director for the city of Billings and chairman of the Montana League of Cities and Towns Insurance Trust.

Exhibit B
3/27/86
John Egerton

SOLUTIONS TO THE GOVERNMENTAL LIABILITY CRISIS

Two-Fold Problem

- No Limits on Liability
  - Supreme Court Decision
- No Liability Insurance
  - Several Governments Have Lost Coverage
  - More Will Lose It
  - Others Face Staggering Premium Increases

Taxpayers at Risk

- Direct Assessment of Judgments

Two-Part Solution

I. Limits on Governmental Liability

- Legislature will Deal with Limits
- If Successful
  - 9-10 Months to Reestablish Limits
  - Unlimited Risk for Taxpayers During this Period
  - Insurance Problem Would Continue
- If Not Successful
  - Unlimited Risk for Taxpayers
  - Insurance Solution More Difficult

II. Insurance Solution

The Montana League of Cities and Towns Insurance Trust is proposing a solution.

The Trust was established to provide pooled self-insurance.

- Workers' Compensation
- Property/Liability

Workers' Compensation began January 1, 1986

- 39 Members
- Over $1.6 Million in Annual Premiums
- Professional Insurance Management

Liability scheduled to begin March 1, 1986, But

- Umbrella or "reinsurance" not available

Coverage will be Pooled Anyway, but

- Losses covered to a Lower Level
- Higher Risk to Members
- Above Limits, Taxpayers Fully Exposed

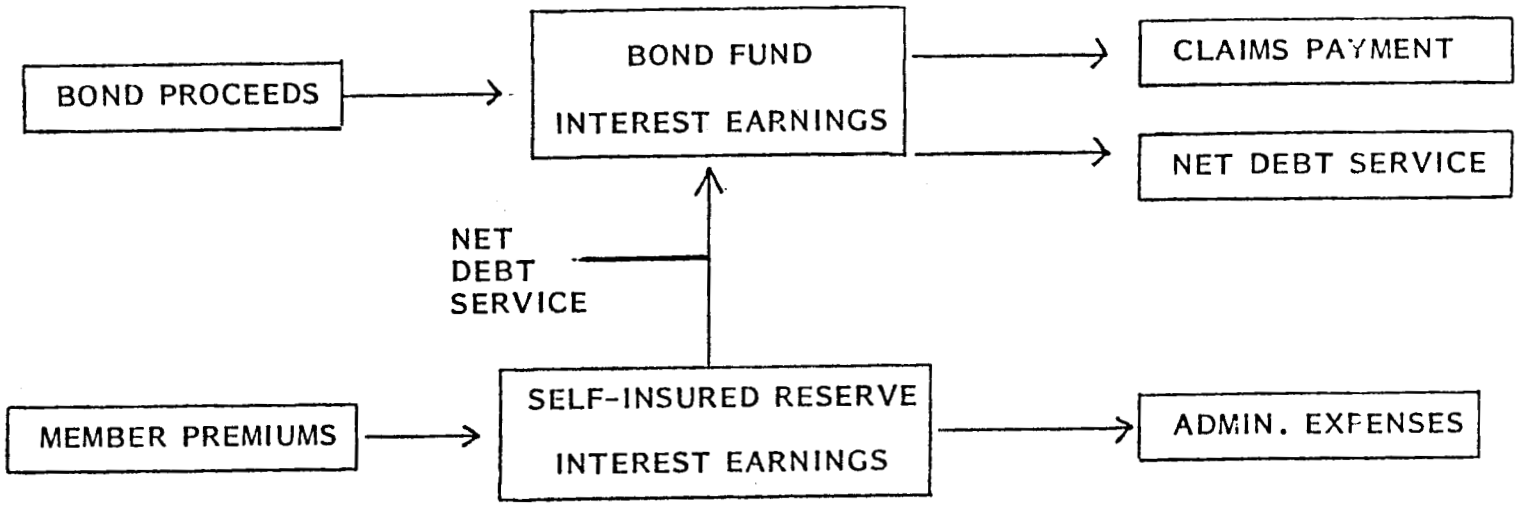
The Solution

Issue revenue bonds to capitalize the liability program

- Provide reserves to insure Cities to liability limits
- Actuarially sound funding basis

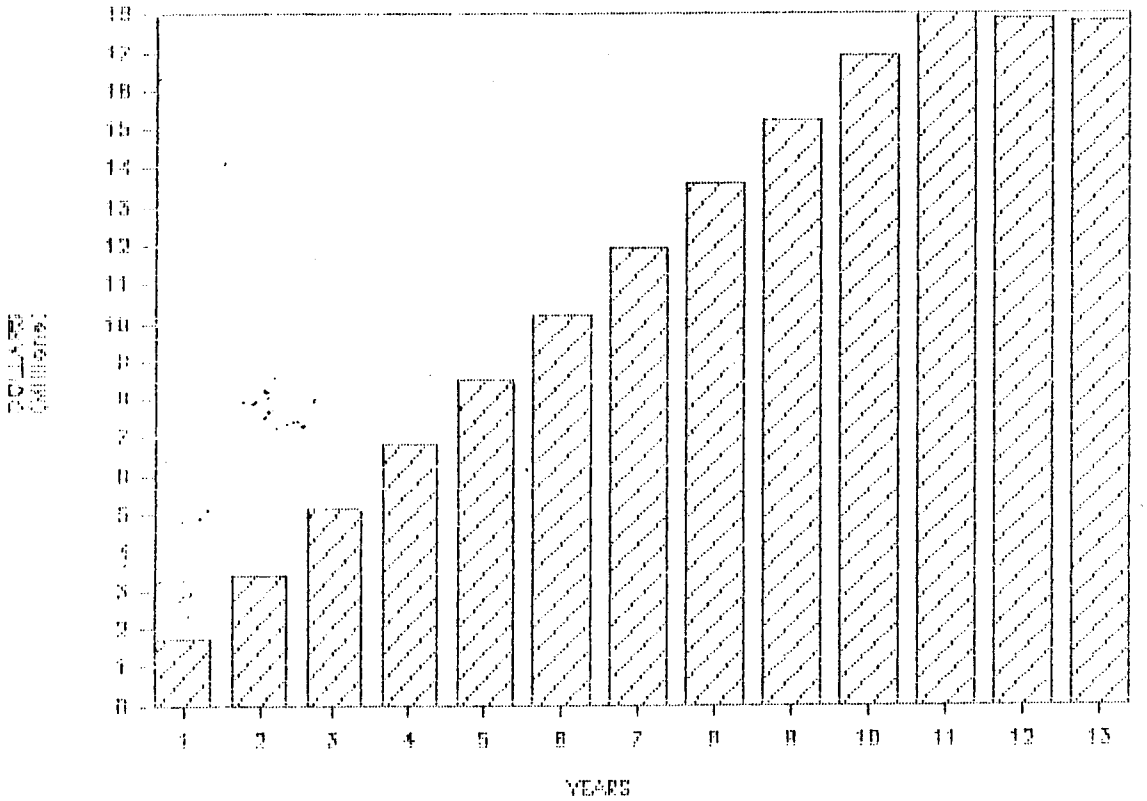
Two Funds would be set up

- Bond Fund
- Self Insured Reserve (SIR) Fund


BOND PROCEEDS
BOND FUND
INTEREST EARNINGS
CLAIMS PAYMENT
NET DEBT SERVICE
NET
DEBT
SERVICE
MEMBER PREMIUMS
SELF-INSURED RESERVE
INTEREST EARNINGS
ADMIN. EXPENSES

BOND FUND
1
2
3
4
5
6
7
8
9
10
YEARS

SELF INSURED RESERVE FUND



As Bond Funds Decrease - Reserve Funds Increase

- Spends Bond Funds
- Allows Unrestricted Interest Yields

By Year 12 - Based on $20 million Example

- Bond Proceeds Paid Out
- $18 Million in free reserves in SIR Fund

Program Designed to Handle "Big Hits"

In Unlikely Event of Catastrophe

- Issue More Bonds
- Raise Premiums

Bond Security

- Funds Designed to have 100% of Outstanding Principle at all times
- Premiums will be "retro rated"

Legislation Needed

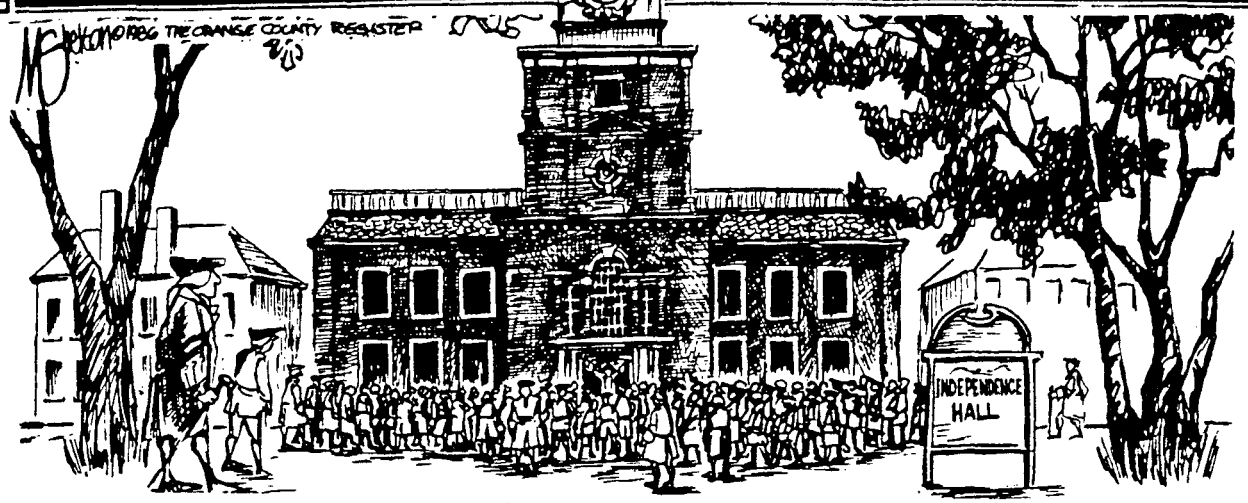
- Simple amendment to political subdivision insurance law
  - Allows claims to be paid from borrowings
  - Allows debt to be issued
    - Debt would be outside debt limits
    - Can't exceed 3% Assessed Valuation
    - Premiums would be outside levy limits

Advantages

- Best Available Solution for Liability coverage;
- Designed by and for cities and towns with insurance experts

  No special programs from State

  Need only simple legislation to solve own problem
- Can be used by other governments;
- Guaranteed long-term coverage;
- Rates based on actual losses;
- More premium dollars stay in Montana;
- Premiums generate revenue to provide self-sustaining capital within 10 - 15 years;
- If reinsurance becomes available, funds could be protected further.



"HEAR YE, HEAR YE! DUE TO LACK OF LIABILITY INSURANCE..."

Legislature holds liability key

Guest columnist

John Lawton

TAXPAYERS AT RISK

Montana taxpayers are at risk. They are at risk of directly having to pay judgments resulting from lawsuits against their local governments. Fortunately, solutions are at hand that the Legislature will be asked to make possible through a constitutional amendment and a simple law change.

A year ago cities, counties and school districts were insured, premiums were reasonable, and state law limited the amounts that could be collected from them through lawsuits. The situation today could not be more different.

Billings and several other cities have lost all or part of their liability insurance. Remaining policies have doubled, tripled or quadrupled in price. More local governments will lose their insurance or suffer staggering cost increases. To make matters worse, the Supreme Court in its Pfost decision removed limitations on governmental liability previously established by the Legislature.

TWO-FOLD PROBLEM

For Billings the problem then is two-fold. We have no insurance and we have no limits on liability. The taxpayers are directly exposed to financial loss because state law requires levying a tax on real property to pay judgments that the city does not have the means to pay otherwise. Such levies are over and above mill levy limits.

The special session of the Legislature was already scheduled to deal with the liability limits. Now, thanks to the efforts of the mayor and City Council, Governor Schwinden, Sens. Blaylock and Crippen, Rep. Ramirez and other legislative leaders around the state, it will also deal with the problem of having no insurance.

LIABILITY LIMITS

The special session of the Legislature will be asked to place an amendment to the Constitution on the ballot for the November general election. This amendment would allow the Legislature to reestablish limits on the amount of damages that could be collected by anyone suing the city or other governments.

The reestablishment of limits is an important part of the solution to the insurance crisis. By reestablishing limits, the Legislature would be protecting the interests of all the taxpayers by limiting their financial exposure to huge losses. The rights of individuals suffering losses would be protected by setting the limits high enough to reasonably compensate them for damages.

Even if the constitutional amendment were passed, however, limits could not be reenacted until the general session of the Legislature in January 1987. This means that there will be at least nine or 10 months of continued exposure to unlimited losses. Even if limits were reestablished, there still would be no insurance to protect the taxpayers for judgments below those limits.

THE INSURANCE SOLUTION

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The Insurance Trust was formed by the League of Cities and Towns to provide pooled insurance coverage in the workers' compensation and liability areas. This response to the insurance crisis was formed with the idea that there would be strength in numbers in the absence of liability coverage. The trust has already established a self-insured workers' compensation program with 26 members, over $1 million in premiums and professional insurance management.

Issuing bonds to provide liability coverage for cities appears to provide the best available solution to the insurance problem. The concept is that bonds would be issued in the amount of, say, $20 million. Coverage would be provided to member cities on an actuarially sound basis up to the limits that are (hopefully) established by the Legislature.

The money realized from selling bonds would be used to provide capital for the insurance program. Member cities would pay premiums just as they would to an insurance company. Substantial interest would be earned on cash reserves. Financial projections done by insurance consultants show that premiums and interest earnings would be sufficient not only to repay the bonds over 20 years, but also to generate free reserves of about $18 million by about the 12th year of the program.

To allow bonds to be issued for this purpose, a simple law change is needed. The proposed law would allow debt to be issued outside normal debt limits and would allow premiums to be paid outside normal levy limitations. These provisions are necessary to provide security to enable the bonds to be sold but, in fact, the premiums could be paid just like normal insurance premiums and would not require levies over and above any limits. To protect the taxpayers, each jurisdiction's share of the debt could not exceed 3 percent of its taxable value.

While not necessarily perfect, this solution is probably the best way to protect the taxpayers from financial losses due to lawsuits at this time. It provides long-term coverage, it is self-supporting, and it was designed by insurance and financial experts. We are not asking the state for special programs or assistance — just a simple law change to allow us to solve our own problem. The program can be used by other governments, and if reinsurance ever becomes available again, the cash reserve could be further protected by buying reinsurance.

In short, we believe we have found workable solutions to a serious problem. We hope the Legislature will deal with them quickly and positively. The city of Billings has 40 to 45 active or threatened lawsuits going at any one time. Eventually, one of these claims could result in a major loss for the city. We need to take every step possible to protect the taxpayers in the event of a major loss.

John Lawton is the finance director for the city of Billings and chairman of the Montana League of Cities and Towns Insurance Trust.

BILL NO. _____

INTRODUCED BY Fuller

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING POLITICAL SUBDIVISIONS TO ISSUE BONDS OR NOTES, INDIVIDUALLY OR JOINTLY, TO ESTABLISH SELF-INSURANCE RESERVE FUNDS; AMENDING SECTIONS 2-9-211 AND 2-9-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-9-211, MCA, is amended to read:

"2-9-211. Political subdivision insurance. (1) All political subdivisions of the state may procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part.

(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve separately or jointly with other subdivisions.

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve

fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

(4) Money in reserve funds established under this section not needed to meet expected expenditures shall be invested and all proceeds of the investment credited to the fund.

(5) A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance or deductible reserve fund and costs incident thereto in an amount not exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or notes must be authorized by resolution of the governing body, are payable from the taxes authorized by 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory debt limitation, and may contain such other terms and provisions as the governing body determines. Two or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective borrowing powers hereunder jointly and may authorize a joint board created pursuant to such agreement to exercise such powers on their behalf."

Section 2. Section 2-9-212, MCA, is amended to read:

"2-9-212. Political subdivision tax levy to pay premiums. Notwithstanding any provisions of law to the contrary, all political subdivisions may levy an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and self-insurance reserve fund as herein authorized and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5), even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded thereby, provided that the revenues derived therefrom may not be used for any other purpose."

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

Product Update

The Pooled Government Liability Insurance Program

First Boston

48

The Pooled Government Liability Insurance Program

Objective	To provide local governments with affordable, self-sufficient liability insurance coverage.
Description	An issuer, acting on behalf of local government participants, issues either variable rate or fixed rate securities. The proceeds are then deposited into a self-insurance reserve fund. The local governments pay an insurance premium to the issuer, which consists of debt service on the securities, administrative costs of the program and a risk allocation based on an historical risk analysis of each participant.
Benefits	The Pooled Government Liability Insurance Program is extremely attractive to local governments because: • Premium payments charged by the program are always lower than premiums charged by commercial carriers; • The bond proceeds permit immediate establishment of self-insurance reserves, thus providing adequate coverage against losses from the outset of the program; • Pooled financing enables local governments to build up their own self-insurance reserves at a faster rate than without such a large financing; and • The reserves establish the credibility of the pool, thereby enabling the program to obtain reinsurance from outside carriers at a future date, in the event such insurance again becomes readily available at competitive rates.
Example	*Step 1.* First Boston and the program sponsor identify an entity that can issue debt and make the proceeds available to various governmental units interested in pooling their insurance risk. The issuer and the program sponsor decide whether to issue fixed or variable rate securities. *Step 2.* It may be necessary to obtain credit support for the program, either in the form of a municipal bond insurance policy or a letter of credit from a commercial bank. If the issuer and program sponsor choose to issue variable rate securities, then a bank must provide liquidity support to the program. Liquidity support guarantees the issuer an uninterrupted source of funds, despite potential disruptions in the tax-exempt market, or problems in remarketing variable rate securities that have been tendered by investors.

Step 3.
The issuer selects an insurance consultant for the pool who will evaluate all claims on a standardized basis. The insurance consultant conducts a thorough insurance review of each participant and recommends an equitable premium structure for that participant. Each participant executes an insurance purchase agreement obligating itself to make premium payments from general revenues.

Step 4.
Fixed rate or variable rate securities are issued and the proceeds are used by the issuer to pay initial issuance costs and to establish the self-insurance reserves. The earnings on the self-insurance reserves are restricted to the yield on the securities and are used to pay debt service.

Step 5.
The local government participants make regular premium payments consisting of (1) a payment relating to debt service on the securities (including the securities used to pay the initial issuance costs); (2) administrative costs of the program; and (3) a risk premium payment that will be used to further increase the self-insurance reserves.

Step 6.
First Boston actively remarkets variable rate program securities that have been tendered by investors, and provides the issuer and participants with regular reports on the condition of the tax-exempt market. First Boston immediately notifies the issuer and the participants of attractive opportunities to convert the program securities to the interest rate period most advantageous to the program. The insurance consultant conducts an annual review of the program's risk experience and recommends appropriate adjustments to premium payments. This consultant also monitors the feasibility of obtaining reinsurance from outside carriers and advises the issuer and participants when such coverage becomes available at rates that benefit the program.

For additional information on the Pooled Government Liability Insurance Program, please contact your First Boston account officer or any of the following individuals in First Boston's Municipal Securities Division:

New York	Jonathan Plutzik	(212) 909-2823
Atlanta	Steven Pischke	(404) 656-9508
Chicago	George Popoff	(312) 750-3136
Houston	John Kreft	(713) 220-6735
San Francisco	Michael George	(415) 765-7047

March 1986.

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Geneva	Zurich
Singapore	

Montana League of Cities and Towns
P.O. Box 1704 Helena, MT 59624 Phone (406) 442-8768

MARCH 3, 1986

MEMORANDUM

TO: JIM WYSOCKI, JOHN LAWTON, DON PEOPLES, NATHAN TUBERGEN, JIM NUGENT AND DON SAVILLE

FROM: ALEC HANSEN Alec

RE: LIABILITY INSURANCE BONDING PROGRAM

THE FOLLOWING IS A LIST OF QUESTIONS THAT MAY COME UP IN DISCUSSIONS WITH LEGISLATORS ON THE LIABILITY INSURANCE BONDING PROGRAM:

1. WHY CAN'T THIS ISSUE WAIT FOR THE REGULAR SESSION NEXT WINTER?

BETWEEN NOW AND THE TIME THAT PROPOSED LIABILITY PROTECTION COULD BE REINSTATED BY CONSTITUTIONAL REFERENDUM, LOCAL GOVERNMENTS ARE OPEN TO MAXIMUM EXPOSURE. THE LEAGUE PLANS TO HAVE A STRAIGHT, UNSECURED LIABILITY POOL IN PLACE BY APRIL 1ST, BUT WILL ONLY BE ABLE TO OFFER $500,000 TO $1-MILLION IN COVERAGE DEPENDING ON PREMIUM VOLUME. DURING THIS TIME WHEN THE SKY IS THE LIMIT ON TORT CLAIMS, LOCAL GOVERNMENTS DESPERATELY NEED THE PROTECTION THAT WILL BE PROVIDED BY THE PROPOSED BONDING PROGRAM.

2. WHICH CITIES AND TOWNS DO NOT CURRENTLY HAVE LIABILITY COVERAGE?

BILLINGS, BUTTE, DEER LODGE, GREAT FALLS, HAVRE, HELENA AND WOLF POINT ARE CURRENTLY NOT COVERED AND WE EXPECT ADDITIONAL CANCELLATIONS AS POLICIES EXPIRE IN APRIL AND JUNE.

3. WILL THE FINANCIAL INTEREST OF THE CITIES AND THEIR TAXPAYERS BE ADEQUATELY PROTECTED IF THIS PROGRAM IS INITIATED?

THIS PROGRAM WAS DESIGNED TO BE SHOCK RESISTANT. THE LOSS RATIOS WERE VERY CONSERVATIVELY PROJECTED AT 75 PERCENT OF TOTAL PREMIUMS. IF THE PROGRAM DOES ABSORB SEVERAL CATASTROPHIC CLAIMS, BALANCE CAN BE RESTORED BY INCREASING PREMIUMS, WHICH IS A MUCH MORE ACCEPTABLE ALTERNATIVE THAN AN UNINSURED CITY COVERING THESE LOSSES THROUGH A THREE YEAR JUDGMENT LEVY THAT COULD RADICALLY INCREASE PROPERTY TAXES.

4. WHAT HAPPENS WHEN THE CYCLE IN THE INSURANCE INDUSTRY TURNS BACK TO A BUYER'S MARKET?

THE SEVEN CITIES THAT CURRENTLY DO NOT HAVE COVERAGE REPRESENT A MAJOR SHARE OF THE MUNICIPAL LIABILITY MARKET IN MONTANA. IF REINSURANCE BECOMES AVAILABLE, THIS GROUP WOULD BE IN A COMPETITIVE POSITION TO PURCHASE UMBRELLA COVERAGE. THIS WOULD REDUCE CLAIMS COSTS, WHICH WOULD MEAN LOWER PREMIUMS.

5. SHOULD THE CITIES, COUNTIES AND SCHOOLS BE COMPETING WITH COMMERCIAL INSURANCE COMPANIES?

THE LEAGUE OF CITIES AND TOWNS NEVER HAD ANY INTENTION OF GOING INTO THE INSURANCE BUSINESS, BUT THE FAILURE OF THE COMMERCIAL MARKET CANCELLED ALL OTHER OPTIONS. THERE ARE SEVEN CITIES THAT DON'T HAVE COVERAGE AND MOST OF THE REST HAVE EXPERIENCED DRAMATIC PREMIUM INCREASES. THIS SITUATION WAS UNACCEPTABLE, AND THIS PROGRAM REPRESENTS NOTHING MORE THAN AN ATTEMPT BY THE CITIES TO PROTECT THEIR TAXPAYERS FROM EXCESSIVE INSURANCE PREMIUMS OR THE POSSIBILITY OF JUDGMENT LEVIES TO PAY UNCOVERED CLAIMS. CONDITIONS IN THE INSURANCE INDUSTRY MAY IMPROVE IN THE NEXT SEVERAL YEARS, BUT THIS IS A CYCLICAL MARKET AND THE BAD TIMES WILL BE BACK. THIS PROGRAM WILL WORK TO ISOLATE LOCAL GOVERNMENTS FROM THESE FLUCTUATIONS AND ASSURE THE AVAILABILITY OF REASONABLY PRICED INSURANCE PROTECTION.

6. WILL THIS PROGRAM BE ALLOWABLE UNDER FEDERAL TAX REFORM LEGISLATION?

QUALIFIED ATTORNEYS HAVE INDICATED THAT REVENUE BONDS ISSUED TO PROVIDE INSURANCE COVERAGE WOULD BE ALLOWED UNDER THE DEFINITION OF "TRADITIONAL PUBLIC PURPOSE" AND WOULD BE TAX EXEMPT. THE BOND PROCEEDS WOULD BE INVESTED IN A RESTRICTED YIELD ACCOUNT BECAUSE OF ARBITRAGE REGULATIONS. ON THE OTHER SIDE, THE INSURANCE RESERVE FUND COULD BE INVESTED AT HIGHER TAXABLE RATES, AND THIS INTEREST ADVANTAGE IS ONE OF THE REASONS THAT THE PROGRAM WILL WORK.

7. IS THE PROJECTION OF CLAIMS COSTS AT THE SAME AMOUNT FOR 11 YEARS REALISTIC?

PREMIUMS ARE ALSO PROJECTED AT THE SAME AMOUNT FOR 11 YEARS. IF CLAIMS EXPERIENCE IS HIGHER OR LOWER THAN PROJECTIONS, PREMIUMS CAN BE ADJUSTED, AND THE PROGRAM WILL BE ACTUARILY SOUND AS LONG AS THE 75 PERCENT RATIO IS MAINTAINED.

8. HOW CAN THIS PROGRAM WORK WHEN COMMERCIAL INSURANCE COMPANIES CANNOT WRITE MUNICIPAL LIABILITY COVERAGE?

THIS PROGRAM HAS SEVERAL IMPORTANT ADVANTAGES. THERE WILL BE NET INVESTMENT EARNINGS THAT WILL BE RETAINED BY THE POOL. ADMINISTRATIVE COSTS WILL BE CONSIDERABLY LOWER THAN THE 40 PERCENT THAT IS NORMAL IN THE INSURANCE INDUSTRY. THERE WILL BE NO COMMISSIONS, AND THERE WILL BE AN EMPHASIS ON LOSS CONTROL AND CLAIMS MANAGEMENT.

9. WILL THIS PROGRAM HAVE ANY EFFECT ON THE STATE BUDGET OR INDIRECT CONSEQUENCES SUCH AS ADMINISTRATIVE OR REGULATORY COSTS?

NO. THIS WILL HAVE NO FINANCIAL EFFECT ON STATE GOVERNMENT. IT IS SIMPLY AN ATTEMPT BY THE CITIES TO SOLVE A SERIOUS PROBLEM ON THEIR OWN INITIATIVE.

WITNESS STATEMENT

NAME Bill Johnstone BILL NO. _____

ADDRESS 4531 Dupont Ave. So. DATE 3-27-84

WHOM DO YOU REPRESENT? League of Cities + Towns

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

CS-34

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Thanks Jim

Exhibit #3
Jan 27, 1986

JAMES W. "JIM" VAN ARSDALE
MAYOR

CITY HALL
220 NORTH 27TH ST.
P.O. BOX 1178
BILLINGS, MT 59103
OFFICE: 406-657-8296

HOME: 1705 MARIPOSA
BILLINGS, MT 59102
406-245-7019

TNESS STATEMENT

:sdale

Committee On Adm. & Local Gov.

Address City of Billings

Date 3-27

Representing City of Billings

Support ✓

Bill No. Senate #2

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. City of Billings is without liability insurance. We are self insured
2. We support Smith Bill #2 so that we can solve our own problem to help provide liability insurance,
3. We dionot want to be in the insurance business but are forced to-to protect our tax payers
4. We (the city) have from HC to SC active or pending law suits at any given time, some may be justified and some are not but Thousands of dollars liability are at stake. Senate Bill #2 will help us with this risk.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

Exhibit D

WITNESS STATEMENT Date 3-27-86

NAME Don Peoples BILL NO. SB-42

ADDRESS 3420 Last Ave DATE 3 27-86

WHOM DO YOU REPRESENT? Belle

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Belle Fourche Board, like many units of local government in Montana, is faced with an immense crisis. Cuts ~~in~~ Revenue have been curbed, & the premium cost have risen 400%-500%. With diminishable limits rising significantly & in many areas more or new forced to "go bare".

SB-2 provides a desirable approach for local governments to obtain a sufficient self insurance pool. This bonding authority being requested under SB-2 would be needed source of funds to create a pool for claim payout. ~~The~~

This proposed legislation returns some sense to the system, and allows local governments to handle their own problem.

BEST COPY AVAILABLE

CS-34

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State Admin

3/2-C

Joan Florence

WITNESS STATEMENT

NAME Bob Mullen BILL NO. ____

ADDRESS 903 8 Ave SE Sidney Mt. 59270 DATE 3/27/86

WHOM DO YOU REPRESENT? MACo

SUPPORT X OPPOSE ____ AMEND ____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana Association of Counties is finding it more and more difficult to find liability insurance. Almost without exception, counties are operating have without environmental impairment liability for such operations as landfills and weed spraying programs and some counties have begun to experience difficulty in placing other liability coverages in such areas as Police & Sheriff liability and Elected Officials E&O. Montana Counties may be forced to use this basic concept, if we can not secure "excess" or "umbrella" insurance to assist our "pooling program".

BEST COPY AVAILABLE

WITNESS STATEMENT

NAME Debi Brammer BILL NO. SB2

ADDRESS Helena, Mt DATE 3-27-86

WHOM DO YOU REPRESENT? Montana Assoc. of Conservation Districts

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana Association Of Conservation Districts

Power Block
Bldg. Suite 4G
Sixth and Last Chance Gul
Helena, Montana 59601
Ph. 406-443-5711

SB# 2

Mr. Chairman and members of the Committee, my name is Debi Brammer and I represent the Montana Association of Conservation Districts.

Although there has not been a significant liability suit impact in the Conservation Districts within Montana, the liability threat is becoming a very large concern of most of our supervisors. Each Conservation District has five to seven supervisors who serve basically on a volunteer basis. There are, in many cases, farmers, ranchers, and or professionals who are deeply concerned with losing their positions and or livelihoods. An increasing amount of demands are being placed upon Conservation Districts and their supervisors by federal, state and local laws. This, along with the public's demands on soil and water resources put demands on supervisors that require personal and professional judgments. Basically, our supervisors feel that the demands put on them in their voluntary capacity creates needs for liability protection. Many of our supervisors are considering resigning due directly to the increasing threat of liability suits. We feel that this is a valuable human resource that has helped protect the soil and water resources of Montana Since the 1930's, and that it would be devastating to the state if it were lost. We urge your support of Senate Bill Number ~~Five~~ TWO.

Thank you.

Debi Brammer

Debi Brammer
Executive Vice President
Montana Association of Conservation Districts

Re: Senate Bill #2

DATE: 3/27/86 TO: ~~Leon~~

SUBJECT: Senate Bill #2

It is our concern that the 3% taxable value may be imposed by more than one political subdivision at the same time. If this is the case, and is allowed, it could incur quite a large amount of indebtedness on a single piece of property.

It also concerns us that there appears to be no cap on the levy of taxes.

Vera Cahoon
Missoula County
Freeholders Assn. Inc.

WITNESS STATEMENT

Name Julie Kaasa Committee On _____

Address AP Box 335 Date 3/27

Representing Mont Co. Farmers Support _____

Bill No. SB #2 Oppose _____

Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Limit no of times 3% assessed valuation tax levy can be
2. imposed on a single piece of property for purpose of ins. bonds.
3.

4. Who will administer the program - public or private sector?

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

NAME JANET JESSUP BILL NO. SB2

ADDRESS City of Helena DATE

WHOM DO YOU REPRESENT? City of Helena

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Brookes Morin BILL NO. SB 2

ADDRESS City of Helena 316 N Park, Helena DATE 3/22/86

WHOM DO YOU REPRESENT? City of Helena

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STANDING COMMITTEE REPORT

March 27 19 86

Mr. Speaker: We, the committee on State Administration

report SB 2

☐ do pass ☒ be concurred in ☐ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Walter Sales Chairman

XXXXXXXX

Act Authorizing Political Subdivisions to issue bonds or Notes.

Third reading copy (Blue color)

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act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. **Recovery plan.** The department of revenue shall work with the revenue oversight committee of the 49th legislature to develop a liquor division recovery plan for consideration by the June 1986 special legislative session.

Section 5. **Effective date — retroactive applicability — termination.** (1) This act is effective on passage and approval and applies retroactively, as that term is used in 1-2-109, to occurrences after December 31, 1985.

(2) This act terminates on July 1, 1986.

Approved April 4, 1986.

CHAPTER NO. 3

[SB 2]

AN ACT AUTHORIZING POLITICAL SUBDIVISIONS TO ISSUE BONDS OR NOTES, INDIVIDUALLY OR JOINTLY, TO ESTABLISH SELF-INSURANCE RESERVE FUNDS; AMENDING SECTIONS 2-9-211 AND 2-9-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-9-211, MCA, is amended to read:

"2-9-211. Political subdivision insurance. (1) All political subdivisions of the state may procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part.

(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve *separately or jointly with other subdivisions.*

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund, *separately or jointly with other subdivisions,* sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve fund must be made from local legislative appropriations for that purpose *or from the proceeds of bonds or notes authorized by subsection (5).* Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

(4) Money in reserve funds established under this section not needed to meet expected expenditures shall be invested and all proceeds of the investment credited to the fund.

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(5) A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance or deductible reserve fund and costs incident thereto in an amount not exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or notes must be authorized by resolution of the governing body, are payable from the taxes authorized by 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory debt limitation, and may contain such other terms and provisions as the governing body determines. Two or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective borrowing powers hereunder jointly and may authorize a joint board created pursuant to such agreement to exercise such powers on their behalf."

Section 2. Section 2-9-212, MCA, is amended to read:

"2-9-212. Political subdivision tax levy to pay premiums. Notwithstanding any provisions of law to the contrary, all political subdivisions may levy an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and self-insurance reserve fund as herein authorized *and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5)*, even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded thereby, provided that the revenues derived therefrom may not be used for any other purpose."

Section 3. **Effective date.** This act is effective on passage and approval.

Approved April 7, 1986.

CHAPTER NO. 4

[SB 6]

AN ACT TO INCLUDE CERTAIN HIGHER EDUCATION FACILITIES IN THE LIST OF PROJECTS FINANCED BY THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS; AMENDING SECTIONS 90-5-101 AND 90-5-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-5-101, MCA, is amended to read:

"90-5-101. Definition of terms. As used in this part, unless the context otherwise requires, the following definitions apply:

(1) "Agricultural enterprises" include but are not limited to producing, warehousing, storing, fattening, treating, handling, distributing, or selling farm products or livestock.

(2) "Bonds" means bonds, refunding bonds, notes, or other obligations issued by a municipality or county under the authority of this part, including without limitation short-term bonds or notes issued in anticipation of the issuance of long-term bonds or notes.